

PROCEDURAL HISTORY

On or about October, 2002, the Plaintiff commenced an action for damages arising out of these same incidents alleged in his Federal Court complaint in the Supreme Court, State of New York, County of Tompkins. The State Court complaint alleged, among other things, false arrest, malicious prosecution, slander, deprivation of constitutional rights, and other actions similar to those in the instant Federal Court complaint.

On December 10, 2002, a hearing pursuant to General Municipal Law Section 50h, of the laws of the State of New York, was conducted at the offices of plaintiff's attorney. The plaintiff was examined, under oath, before a stenographer, by G. Peter Van Zandt, as attorney for the defendants.

Discovery regarding the State Court action continued. On August 1, 2003, a motion to compel plaintiff to comply with the discovery demands of the defendant, was heard by the Hon. Robert C. Mulvey, Justice, Supreme Court, Tompkins County, in Ithaca, New York. At that time and place, attorney for plaintiff consented to supply the requested discovery items. Additional supplemental discovery was performed thereafter.

On December 10, 2003, an examination before trial of plaintiff, pursuant to the Civil Practice Law and Rules of the State of New York was held at the offices of plaintiff's attorney, in Ithaca, New York.

Thereafter, in December, 2003, the matter was declared trial ready, and put on the trial calendar for the Supreme Court, State of New York, Tompkins County, as scheduled to be tried on the 14th day of June, 2004.

On February 23, 2004, the Supreme Court, State of New York, County of Tompkins, on its own, moved the trial date up from June 14, 2004 to June 7, 2004.

On March 19 and 20, 2004, approximately eighteen (18) months after the state action was commenced by plaintiff, plaintiff caused to be served a Summons and Complaint previously filed in the United States District Court, Northern District of New York, upon defendants, commencing the instant action.

On June 3, 2004, a Federal Rule 26 Conference was held before the Honorable Magistrate Judge David E. Peebles, at the United States District Court, Syracuse, New York.

The June 7, 2004 trial of the State Court matter has been adjourned, awaiting the outcome of this motion.